* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Reserved on October 8, 2007
Date of Decision : October 25, 2007

\+ **CHAT.A.REF No 2 of 2005**

COUNCIL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA .....Petitioner
Through : Mr. K.K.Jain with Mr. Rakesh Agarwal, Advocates.

versus

DEEPAK PARTI, FCA ....Respondent
Through: Mr. Pankaj Batra, Advocate.

CORAM:
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE DR. JUSTICE S. MURALIDHAR

1. Whether Reporters of local papers may be allowed to see the judgment? No
2. To be referred to the Reporter or not? No
3. Whether the judgment should be reported in Digest? No

JUDGMENT

:Dr. S. Muralidhar, J.

1. This reference under Section 21(5) of the Chartered Accountants Act, 1949 ('Act') has been made by the Council of the Institute of Chartered Accountants of India ('ICAI') in respect of Shri Deepak Parti, Chartered Accountant, Delhi.

2. In the Statement of Case it is stated that a complaint against Shri Deepak Parti was made by Mrs. Lakshmi Rani Hazra, Kolkata in which, inter alia, it was stated that Shri Deepak Parti was Vice Chairman of a non-banking financial company known as M/s. Schematic Finance Ltd. ('SFL') in

which the complainant and her son had made investment in a Super Flexi Note Scheme for 31 to 91 days. The cheques issued by SFL were returned dishonoured by the banks because of the withdrawal 'At Par Facility' from 7.2.1998 onwards. It appears that SFL closed down its Calcutta Branch Office and the cheques issued remained uncashed. Despite assurance from SFL that the money would be returned and payment would start from December, 1999, no money was received by the said complainant. It was further stated in the complaint that Shri Deepak Parti continued to use the CARE's highest safety rating in the application form issued by SFL despite the fact that CARE had withdrawn this safety rating from July, 1997 onwards. It was further stated in the complaint that cheques in the sum of Rs.6,95,996/- was dishonoured by the Bank and also that the Respondent failed to comply with the Repayment Schedule Order issued by the Company Law Board. Further it was stated that Shri Deepak Parti had cheated innocent depositors.

3. A copy of the complaint was sent to Shri Deepak Parti by a letter dated 15.1.2001 and a subsequent reminder was sent on 18.2.2002. Shri Deepak Parti did not send in his written statement. At a meeting held in April, 2003 in Delhi, the Council formed a prima facie opinion that Shri Deepak Parti was guilty of professional and/or other misconduct and referred the matter to the Disciplinary Authority constituted under the Act for enquiry.

4. At the meeting of the Disciplinary Authority held on 5.11.2003, neither the complainant nor Shri Deepak Parti appeared before the Committee. The Committee thereafter decided to proceed with the enquiry and completed it

ex parte. After perusing the complaint and other documents submitted by the complainant, the Committee submitted its report dated 4.2.2004 with the opinion that Shri Deepak Parti was guilty of professional misconduct falling within the meaning of "other misconduct" under Section 22 read with Section 21 of the Act.

5. A copy of the Disciplinary Committee report was forwarded by a letter dated 25.7.2004 to both the complainant as well as Shri Deepak Parti. They were given final opportunity to send in written representation, if any, in the matter and also permitted to appear before the Council either in person or through a lawyer and make submissions. Further reminders were sent on 9.6.2004 and 25.6.2004 despite which Shri Deepak Parti did not send in any representation. The complainant submitted a written representation dated 15.6.2004.

6. On a consideration of the report of the Disciplinary Committee along with the complainant's written representation dated 15.6.2004, the Council accepted the report of the Disciplinary Committee and held that Shri Deepak Parti was guilty of professional misconduct falling within the meaning of "other misconduct" under Section 22 read with Section 21 of the Act. The Council also decided to recommend to this Court that the name of the Respondent be removed from the Register of Members for a period of six months. That is how the present reference arises before us. Notice for directions was issued in this reference on 15.9.2005 but none appeared for Shri Deepak Parti, even at the final hearing.

7. On going through the papers, we find that the view taken by the Disciplinary Committee was the correct view in the facts and circumstances of the case. Shri Deepak Parti having decided to remain ex parte, there is nothing to disbelieve the version of the complainant which has been accepted both by the Disciplinary Committee as well as the Council of the ICAI. After examining the papers placed on record, this Court accepts the recommendation made by the Council of the ICAI to the effect that the Respondent No.1 Shri Deepak Parti should be removed from the Register of Members for a period of six months. Necessary gazette notification should be issued by the Petitioner.

8. The reference is disposed of accordingly.

S. MURALIDHAR, J

MADAN B. LOKUR, J

October 25, 2007
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